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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON

7 LISA ANN-MARIE GOSS,

8 Plaintiff,

9 v.

10 NANCY A. BERRYHILL, Acting
Commissioner of the Social Security
Administration,

11 Defendant.
12

CASE NO. 2:16-CV-01888-JRC

ORDER TO DISMISS FOR LACK OF
PROSECUTION

13 This Court has jurisdiction pursuant to 28 U.S.C. § 636(c), Fed. R. Civ. P. 73 and
14 Local Magistrate Judge Rule MJR 13 (*see also* Notice of Initial Assignment to a U.S.
15 Magistrate Judge and Consent Form, Dkt. 6; Consent to Proceed Before a United States
16 Magistrate Judge, Dkt. 7).

17 This matter is before the Court on this Court's Order to Show Cause, dated May
18 3, 2017 and mailed on May 4, 2017, why this matter should not be dismissed for failure
19 to follow the Court's Scheduling Order. *See* Dkt. 14. Plaintiff was again provided
20 direction on what to include in her opening brief and she was ordered either to file her
21 opening brief or provide an explanation to the Court why she was not able to file her
22 brief. *Id.* Plaintiff has failed to file anything in response to this Court's Order. For this
23 reason, this action shall be dismissed without prejudice.
24

BACKGROUND

Plaintiff, Lisa Ann-Marie Goss, proceeding *pro se* filed her complaint in December, 2016. *See* Dkts. 1, 3. Because plaintiff is proceeding *pro se* and was granted *in forma pauperis* status (Dkt. 2), the Court directed service of the summons and complaint. Dkt. 4. Following one motion for extension to file the answer (Dkt. 9), the Acting Commissioner filed the Answer/Administrative Record on March 1, 2017. Dkt. 12. The Scheduling Order was filed and mailed to plaintiff on March 2, 2017. Dkt. 13. This Order directed plaintiff to file an opening brief on or before March 31, 2017. Plaintiff neither filed an opening brief nor asked the Court for more time to do so. This Court issued an Order to Show Cause on May 3, 2017 and mailed the Order to plaintiff on May 4, 2017. Dkt. 14. This Order stated in part:

- (1) Lisa Ann-Marie Goss, plaintiff, must submit to the Court by **June 2, 2017** an opening brief explaining what the ALJ did wrong, with citations to the Administrative Record, what evidence supports plaintiff's position, and why the ALJ's error was harmful, and also must follow the requirements noted in the Scheduling Order (*see* Dkt. 13).
- (2) If plaintiff does not file or cannot file an opening brief, she must explain why the case should not be dismissed for failing to follow the Court's scheduling order. She must submit this explanation to the Court no later than **June 2, 2017**.
- (3) If plaintiff files an opening brief or explains why she failed to follow the scheduling order, the Acting Commissioner shall file a response by **June 30, 2017**.
- (4) If plaintiff does not file an opening brief or does not explain why she failed to follow the scheduling order, the case shall be dismissed.
- (5) The Clerk is directed to mail a copy of this Order to plaintiff at the last known address.
- (6) The Court directs plaintiff to the Court's website, which includes information for *pro se* litigants, such as the *Pro Se* Guide to Filing Your Lawsuit in Federal Court, which includes resources for potentially finding legal advice:

1 <http://www.wawd.uscourts.gov/representing-yourself-pro-se> (last visited May 1,
2 2017). See “Resources That May Help You” located at *Pro Se* Guide, pp. 35-37.

3 *Id.*, pp. 3-4.

4 DISCUSSION


5 The Court is not to dismiss the action before consideration of the merits if there
6 are “other less drastic alternatives . . . available,” due to plaintiff’s *pro se* status. See
7 *Eldridge v. Block*, 832 F.2d 1132, 1137 (9th Cir. 1987) (citing *Nevijel v. North Coast Life*
8 *Ins. Co.*, 651 F.2d 671, 674 (1981)). The Court provided notice to plaintiff that this
9 matter would be dismissed for lack of prosecution if plaintiff failed to follow the Court’s
10 order and file an opening brief. Dkt. 14. Plaintiff has not filed anything since January 10,
11 2017, when she filed her consent form. See Dkt. 7.

12 CONCLUSION

13 Since plaintiff has failed to abide by this Court’s scheduling orders and has failed
14 to show cause why this matter should not be dismissed, this matter is dismissed without
15 prejudice, for lack of prosecution and the case is closed.

16 The Clerk is directed to mail a copy of this Order to plaintiff at her last known
17 address.
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19 Dated this 21st day of June, 2017.

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21 J. Richard Creatura
22 United States Magistrate Judge
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